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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/813,465   | 03/29/2004  | Doyle D. Hendrickson | Hendrickson DivIII  | 2901             |
| 33549  | 7590        | 11/03/2006           | EXAMINER            |                  |
| SANTANGELO LAW OFFICES, P.C.<br>125 SOUTH HOWES, THIRD FLOOR<br>FORT COLLINS, CO 80521 |             |                      | PARSLEY, DAVID J    |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3643                |                  |

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |                                       |  |
|------------------------------|-------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/813,465 | Applicant(s)<br>HENDRICKSON, DOYLE D. |  |
|                              | Examiner<br>David J. Parsley  | Art Unit<br>3643                      |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9-25-06</u> . | 6) <input type="checkbox"/> Other: _____  |

## **Detailed Action**

### *Amendment*

1. This office action is in response to applicant's amendment dated 9-25-06 and this action is final.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 10, 14-17, 19-27 are rejected under 35 U.S.C. 102(b) as being anticipated by

U.S. Patent No. 4,604,805 to Krieger.

Referring to claims 1 and 19, Krieger discloses a cutting system comprising, a frame member – at 12, a blade body member – at 14, which is responsive to the frame member – see figures 1-3, a blade element – at B, detachably attached to the blade body member – at 14, which is held by the blade body member wherein the blade element is entirely user detachable so that it can be easily removed and replaced from the blade body member by a user – see figures 1-3 and column 2 lines 55-68 and column 4 lines 65-68 and column 5 lines 1-6, and wherein the blade element – at B, has a straight cutting edge – see at the bottom edge of B, and an end – see figures

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1-2, an acute angle end point presented at the end of the blade element – see at the end of B in figure 1, a pivot element – at 16,17, connected to the frame member and the blade body member – see figures 1-3, which permits the blade body member – at 14, to pivot with respect to the frame member – at 12 – see figures 1-3, and a blade body cavity – at 54, on the frame member wherein the blade body cavity is configured to shield at least a portion of the cutting edge of the blade element when the blade body member is pivoted with respect to the frame member – see figures 1-3.

Referring to claims 2 and 20, Krieger discloses the acute angle end point presented at the end of the blade element comprises a dual edge element – see at B in figures 1-2.

Referring to claims 3 and 21, Krieger discloses a retaining element – at 56,58,62,64, that holds the blade element – B, with respect to the blade body member – at 14, and wherein the retaining element is positioned approximately equidistant between the pivot element and the acute angle end point – see figures 1-3 where portions of items 56,58,62,64 are equidistant from the tip of the blade – at B and the pivot element – at 16,17, depending on how far the blade is extended out of the housing – at 10 as seen in figures 1-3.

Referring to claims 4 and 22, Krieger discloses a releasable pivot lock – at 18,72-90, to which the blade body member is responsive and which detachably prevents the blade element from pivoting with respect to the frame member – see figures 1-3 and column 4 lines 44-64.

Referring to claim 5, Krieger discloses the releasable pivot lock locks the blade element – at B, at three roughly orthogonal positions – see figures 1-3, where the blade – at B, is movable into at least three different positions.

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Referring to claims 6 and 24, Krieger discloses the blade element – at B, and the blade body – at 14, are pivoting elements – see figure 3, and wherein the releasable pivot lock comprises a locking mechanism – at 72-88, to which the blade element is responsive – see figures 1-6, and a spring element – at 90, which yieldably urges the locking mechanism against at least one of the pivoting elements – see at 18,50,52 in figure 6.

Referring to claims 7 and 25, Krieger discloses the blade element – at B and the blade body are pivoting elements – see figures 1-3, and wherein the releasable pivot lock comprises – at pin – see at 18, to which the blade element is responsive – see figures 1-6, and a spring element – at 90, which yieldably urges the pin against at least one of the pivoting elements – see at 18,50,52 in figure 6.

Referring to claim 10, Krieger discloses the frame member – at 12, has an external frame surface – see figures 1-3, wherein the blade body member – at 14, has an external blade body surface – see figures 1-3, and wherein the external surface and the external blade body surface present aligned shapes when the blade body member – at 14, is pivoted with respect to the frame member, so that at least a portion of the cutting edge of the blade element is shielded by the blade retention cavity – at 54 – see figures 1-3.

Referring to claim 14, Krieger discloses a cut material centering element – at the portions of items 12,14 forward of the pivot element – at 16,17, behind at least a portion of the cutting edge – at B – see figures 1-3.

Referring to claim 15, Krieger discloses the cut material centering element comprises a concave feature – see the curved portions of items 12 and 14 in figures 1-3.

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Referring to claim 16, Krieger discloses the blade body member – at 14, is tapered – see figures 1-3, and wherein the cut material centering element – at the forward portions of items 12 and 14, comprises the tapered blade body member – see figures 1-3.

Referring to claim 17, Krieger discloses a thumb rest – any portion of the external surface of items 12 and/or 14, to which the frame member is responsive and which in use acts to cause a force which is substantially perpendicular to at least a portion of the blade element – at B – see figures 1-3.

Referring to claim 26, Krieger discloses releasing the lock after accomplishing the step of locking the blade element – at B, with respect to the frame member – at 12 – see figures 1-6 and column 4 lines 44-64.

Referring to claim 27, Krieger discloses removing the blade element – at B, from the blade body member, replacing the blade element with a replacement blade, inserting the replacement blade in the slit in the blade body member – at 14, and retaining the replacement blade in the blade body member – see figures 1-3 and column 4 lines 65-68 and column 5 lines 1-6.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-9, 11-12, 18 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krieger as applied to claims 1 or 19 above, and further in view of U.S. Patent No. 4,524,518 to West.

Referring to claim 8, Krieger does not disclose a blade retention cavity adapted for insertion of a replaceable blade, and a retaining element wherein the replaceable blade is adapted to be held against the blade body member by the retaining element. West does disclose a blade retention cavity – at 38, adapted for insertion of a replaceable blade – see column 4 lines 12-21, and a retaining element – at 46, wherein the replaceable blade is adapted to be held against the blade body member – at 20, by the retaining element – see figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Krieger and add the replaceable blade of West, so as to allow for the device to be used when a blade becomes damaged or loses its sharp edge.

Referring to claim 9, Krieger as modified by West further discloses the retaining element – at 46, is a single retaining element – see figures 1-2 of West. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Krieger as modified by West and add the single retaining element of West, so as to securely hold the replacement blades in place.

Referring to claim 11, Krieger does not disclose the frame member comprises a frame member having at least one finger hole. West discloses the frame member – at 16, comprises at least one finger hole – see at the back end of item 19 in figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Krieger and add the frame member with finger hole of West, so as to allow for the device to be easily gripped and held by the user.

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Referring to claims 12 and 28, Krieger as modified by West further discloses an enhanced friction rotational restraint element – at 46, located on the frame member – at 16 – see figure 2 of West, adjacent at least one finger hole – at the rear end of 16 as seen in figure 1 of West or – at 41 as seen in figure 1 of West, and substantially diametrically opposed with respect to a thumb rest – the external surface of item 14 as seen in figures 1-2 of West. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Krieger and add the rotational restraint member of West, so as to allow for the blade body member and the frame member to be securely held to each other during use.

Referring to claim 18, Krieger as modified by West further discloses the frame member – at 16 of West, presents a spatial relation with respect to the cutting surface – at 30 – see figure 1 of West, and further comprising a substantially planer lifting edge – at the external edges of 16, and a substantially planer retention edge – at the edges of 62, each form an angle with respect to the cutting surface when the frame member is positioned in the spatial relation – see figure 1 of West, and wherein the angle of the substantially planer lifting edge with respect to the cutting surface is less than 90 degrees – see figure 1 of West, while the angle of the substantially planer retention edge with respect to the cutting surface is about 90 degrees – see figure 1 of West. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Krieger as modified by West and add the lifting surface and retention surface of West, so as to allow for the device to be placed into different orientations for use.

Referring to claim 29, Krieger as modified by West further discloses manually pressing against the thumb rest – at the external surfaces of 12,14, on the cutting instrument and manually pressing against the frictionally enhanced portion – proximate item 46, on the cutting instrument

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to accomplish a step of creating roughly orthogonal forces on the cutting instrument – see figures 1-2 and column 4 lines 12-68 of West. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Krieger as modified by West and add the pressing on the thumb rest and frictionally enhanced portion of the instrument of West, so as to allow for the blade element to be adjusted as required by the user.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Krieger as applied to claim 1 above, and further in view of U.S. Patent No. 5,581,895 to Jeffcoat. Krieger does not disclose the lifting edge and the retention edge form an edge concave feature with respect to each other. Jeffcoat does disclose the lifting edge – proximate 30, and the retention edge – at 26, form an edge concave feature with respect to each other – see for example figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Krieger and add the cutting edge of Jeffcoat, so as to allow the blade to perform multiple tasks.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

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5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David Parsley  
Patent Examiner  
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